IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jawahar Lal Charan Das. through its proprietor Jawahar Lal. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.748/2003 against the judgment dated 13-6-2003 passed by the Additional Sessions Judge No.2, Sri Karanpur in Criminal Revision No.2/2003.

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Date of Order: July 06, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. N.K. Chandak for Mr. Vijay Mehta, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

This criminal miscellaneous petition under Section 482 Cr.P.C. is directed against the judgment and order dated 13.6.2003 passed by the Additional Sessions Judge, Sri Karanpur (for short, "the Revisional Court" hereinafter) in Criminal Revision No.2/2003, whereby the revision petition filed by the petitioner, as also the appeal filed by non-petitioner No.2 being Criminal Appeal No.9/2003 against the judgment and order dated 26-5-1999 passed by the Additional Chief Judicial Magistrate, Sri Karanpur (for short, "the trial Court" hereinafter) in Complaint Case No. 402/1999 were dismissed.

On a complaint lodged by the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act" hereinafter) non-petitioner No.2 was prosecuted. By the judgment and order dated 26-5-1999, the trial Court convicted non-petitioner No.2 for the offence under Section 138 of the Act and sentenced him to undergo one year's simple imprisonment. That order came to be challenged by the accused/non-petitioner No.2 by way of filing Criminal Appeal No.9/2003 as also by the petitioner by way of filing Criminal Revision No. 2/2003. The Revisional Court, on re-appreciation of the evidence, came to the conclusion that the trial Court was justified in convicting and sentencing the non-petitioner No.2. Since the non-petitioner No.2 has been sentenced to substantive imprisonment for one year and the trial Court did not consider it just and proper to impose any fine, therefore, the Revisional Court dismissed the revision petition filed by the petitioner, as also the appeal filed by the non-petitioner No.2.

I have carefully gone through the judgments and orders of the Revisional Court as also of the trial Court. It appears that the non-petitioner No.2 did not challenge his conviction and sentence but the petitioner-complainant, by the instant criminal miscellaneous petition, seeks to sentence the non-petitioner No.2, apart from the sentence of imprisonment for one year awarded by the trial court, also with a fine.

On careful perusal of the record and the judgments and orders of the courts below, in my view, it cannot be said that the impugned judgments and orders have resulted in manifest injustice or abuse of the process of any Court. There is no violation of any of the provisions of law. Section 138 of the Act provides punishment on conviction with imprisonment for a term of one year or fine, or both, before the Amendment Act No.55 of 2002, which came into force on 2-2-2003. Thus, for sentencing a person, the provision is very clear that an accused person, as per the prevailing law on the date of the occurrence, can be sentenced to one year's imprisonment or a fine or both. The trial Court has sentenced the non-petitioner No.2 for one year's imprisonment, which is maximum imprisonment awardable as per the law prevailing on the date of judgment passed by the trial Court. In the circumstances, therefore, I do not find any error, illegality or perversity in the judgment and order impugned. There is no miscarriage of justice or abuse of the process of any Court.

Consequently, the miscellaneous petition is dismissed.

(H.R. PANWAR), J.

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